

29-30, and 39 were rejected under the judicially created doctrine of provisional obviousness-type double patenting as being unpatentable over claims 1-2, 15-17, 20-21, 24-25, and 27 of copending application No. 09/337,253 in view of U.S. Patent No. 5,758,355 to Buchanan. Claims 4-10 and 15-39 were rejected under the judicially created doctrine of provisional obviousness-type double patenting as being unpatentable over claims 11-38 of copending application No. 9/610,696, divisional application of the above-referenced application. Applicants will address the provisional obviousness-type double patenting rejections once the pending rejections to the claims are resolved.

#### **REJECTION UNDER 35 U.S.C. § 102:**

In the Office Action, at page 18, claims 4-10 and 16-30 were rejected under 35 U.S.C. § 102 in view of U.S. Patent No. 6,038,366 to Ohno et al. ("Ohno"). This rejection is traversed and reconsideration is requested.

In particular, according to the Office Action, column 3, line 56, to column 4, line 7, Ohno anticipates the claimed elements of independent claim 4. The referred portion of Ohno discloses a tape map information signal 33 written at the 19-th line or 19H (where H represents the horizontal synchronizing pulse and thus "19H" represents the 19-th horizontal synchronizing pulse position) in each of the vertical blanking periods located immediately before the individual frames "1", "2", . . . of the video signal, as shown in FIGS. 4A to 4C. As the tape map information to be written in Ohno, there can be mentioned a start code (of 16 bits) written immediately before the frame "1," VTR manufacture number data (of 24 bits) written in the vertical blanking interval immediately before the frame "2," and a preceding half portion of the vertical blanking interval immediately before the frame "3," a currently loaded tape ID number (of 8 bits) written in a succeeding half of the vertical blanking interval before the frame "3," a serial tape number (of 8 bits) written in a preceding half of the vertical blanking interval immediately before the frame "4" and tape species information (of 8 bits) written in a succeeding half of the vertical blanking interval before the frame "4."

Although Ohno does appear to mention VTR manufacture number data, a currently loaded tape ID number, and a serial tape number as tape map information, Ohno does not teach or suggest that the VTR manufacture number data comprises "an identification code of a manufacturer of a recording apparatus **that last modified the content of the recording medium,**" emphasis added, as recited in independent claim 4. Ohno does not recognize "a recording apparatus for recording and/or editing content, including audio, video, and/or

information data, on a rewritable recording medium, comprising: a recording controller to produce content and formatted information for the content and manufacturer information to support a manufacturer's specific function," as recited in independent claim 4. Rather, Ohno recognizes that the problem of **erroneous recognition of a tape** can satisfactorily be coped with by using as **tape identification information** the manufacture number (i.e., the VTR manufacture number) of the magnetic recording/reproducing apparatus that was used for recording programs on the tape. See column 2, lines 30-37.

One of the many benefits of the recording apparatus of the present application is that by including "manufacturer information to support a manufacturer's specific function, wherein the manufacturer information comprises an identification code of a manufacturer of a recording apparatus that last modified the content of the recording medium," the recording apparatus is capable of checking whether the manufacturer information is effective before using the manufacturer information made by a manufacturer when the recording medium is newly loaded into a recorder/player of the manufacturer. See page 2, lines 32-34 of the Specification of the present Application. Accordingly, Ohno fails to anticipate independent claim 4 and related dependent claims.

Independent claim 7 recites "a rewritable recording medium to store content, comprising: an identification code of a manufacturer of a recording apparatus that last modified the content of the recording medium." Because the claimed features of independent claim 7 are somewhat related to the features of independent claim 4 argued above, the arguments presented above supporting the patentability of independent claim 4 are incorporated herein to support the patentability of independent claim 7 and related dependent claims.

Referring to independent claim 8, Ohno does not recognize "a reproducing apparatus for reproducing content, including audio, video, and/or information data, from a rewritable recording medium, comprising: a reproducing controller to reproduce the content, formatted information for the content and manufacturer information to support a manufacturer's specific function, wherein the manufacturer information comprises an identification code of the manufacturer of a recording apparatus that last modified the content of the recording medium," as recited in independent claim 8. Rather, Ohno recognizes that the problem of **erroneous recognition of a tape** can satisfactorily be coped with by using as **tape identification information** the manufacture number (i.e., the VTR manufacture number) of the magnetic recording/reproducing apparatus that was used for recording programs on the tape. See column 2, lines 30-37. Although Ohno does appear to mention VTR manufacture number data, a currently loaded tape ID number, and

a serial tape number as tape map information, Ohno does teach or suggest that the VTR manufacture number data comprises “an identification code of a manufacturer of a recording apparatus **that last modified the content of the recording medium,**” emphasis added, as recited in independent claim 8.

Further, the Office Action refers to column 4, lines 29 to lines 65, of Ohno as teaching the claimed features of independent claim 3. In this portion of Ohno, in a play-back mode, tape map information recorded on a tape is read out to be decoded by a decoder circuit 6 to be subsequently supplied to the tape map controller 5 for checking whether the VTR manufacture number, the currently loaded tape ID number and the serial tape number **match** with those stored in the library memory 4, respectively. (Emphasis added). However, the controller 5 fails to provide “a reproducing controller to reproduce the content, formatted information for the content and manufacturer information **to support a manufacturer’s specific function,**” emphasis added, as recited in independent claim 8. Ohno refers to a memory 4 including three kinds of information, i.e., management information 26, tape list information 27 and a program list 28. Specifically, the VTR manufacture number in the management information 26 is used for determining whether a tape as loaded in the recording/reproducing apparatus is the tape processed by the same apparatus (i.e., whether both the recording and the play-back are effected by the same VTR). However, the management information 26 does not include “an identification code of the manufacturer of a recording apparatus that last modified the content of the recording medium,” as recited in independent claim 8. Accordingly, it is respectfully asserted that independent claim 8 and related dependent claim 9 are patentable.

Independent claim 10 of the present application recites “a reproducing apparatus to reproduce content and information on a recording medium, comprising: a device to check an identification code of a manufacturer and an identification code in the information recorded on the recording medium to determine a manufacturer that last modified the content on the recording medium.” The arguments presented above supporting the patentability of independent claim 8 are incorporated herein to support the patentability of independent claim 10.

Referring to independent claim 28, this claim recites “a recording and reproducing apparatus to record and reproduce content on a recording medium, comprising: a recorder to record on the recording medium a manufacturer identification code of the recording and reproducing apparatus indicating a manufacturer of the recording and reproducing apparatus as the last one to modify the content of the recording medium; and a reproducer to read the manufacturer identification information, determine whether the content is effective based upon

whether the read manufacturer identification information matches that of the recording and reproducing apparatus, and read the content if the content is effective.” The Office Action refers to FIG. 1, column 3, line 37, to column 4, line 28, of Ohno as disclosing the claimed features of independent claim 28. These portions of Ohno were previously discussed with respect to independent claims 4 and 8. Further, because independent claim 28 is somewhat related to independent claims 4 and 8, the arguments presented above supporting the patentability of independent claims 4 and 8 are incorporated herein to support the patentability of independent claim 28 and related dependent claims.

The Office Action also refers to column 6, lines 18-30 of Ohno to reject independent claim 28. In the referred portion of Ohno, a preliminary play-back operation is automatically carried out to read out tape map information or data which is recorded in the vertical blanking intervals of a video signal, and it is checked whether the VTR manufacture number data as fetched from the tape coincides with the VTR manufacture number stored in the library memory 4 shown in FIG. 1. However, as previously indicated, the VTR manufacture number in the management information 26 is used for determining whether a tape as loaded in the recording/reproducing apparatus is the tape processed by the same apparatus (i.e., whether both the recording and the play-back are effected by the same VTR). See column 4, lines 29 to lines 65. Accordingly, Ohno fails to teach or suggest “a reproducer to read the manufacturer identification information, determine **whether the content is effective** based upon whether the read manufacturer identification information matches that of the recording and reproducing apparatus, and read the content if the content is effective,” emphasis added, as recited in independent claim 28.

In view of the foregoing, Applicants respectfully assert that Ohno does not anticipate independent claims 4, 7, 8, 10, and 28 and related dependent claims. It is respectfully requested that the pending claims of the present application be allowed.

#### **REJECTION UNDER 35 U.S.C. § 103:**

In the Office Action, at page 23, claims 15 and 31-39 were rejected under 35 U.S.C. § 103 in view of Ohno. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested. Because claim 15 is dependent on independent claim 7, Ohno must teach or suggest the claim limitations of independent claim 7 and the limitations of dependent claim 15 to satisfy an obviousness rejection under 35 U.S.C. § 103. Independent claim 7 was previously discussed and

distinguished over Ohno, accordingly, the arguments presented above supporting the patentability of independent claim 7 and related dependent claims are incorporated herein.

Furthermore, on page 24 of the Office Action, the Examiner supports the obviousness rejection by asserting, **without the benefit of a teaching or suggestion from any reference**, "it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known recording the compressed A/V signal into Ohno et al's system in order to increase the storage capacity of the recording medium of the Ohno et al . . . because optical recorder has random access capability and there is no physical contact between the optical recording head and the optical recording medium," which contention is based solely on the personal knowledge of the Examiner. The personal knowledge of the Examiner when used as a basis for a rejection must be supported by an affidavit as to the specifics of the facts of that knowledge when called for by applicant. See, e.g. 37 C.F.R. § 1.104(d)(2). Accordingly, either the Examiner must support this assertion with an Affidavit or withdraw the rejection. Applicant respectfully requests the Examiner to support the rejection with either her affidavit or a reference, or to withdraw the rejection. It is respectfully asserted that independent claim 7 and related dependent claim 15 are patentable in view of the references of record.

Referring to independent claim 31, this claim recites "an optical pickup to read the manufacturer identification code; and a reproducer to make a first **determination of the manufacturer of the apparatus that last modified the content based upon the read manufacturer identification code**, and make a second determination whether the optical pickup is to read the content based upon the first determination." (Emphasis added) The arguments presented above for claim 15 arguing the lack of motivation to modify the description of Ohno are incorporated herein. Further, because independent claim 31 is somewhat related to independent claims 8, 10, and 28, the arguments presented above supporting the patentability of independent claims 8, 10, and 28 are incorporated herein to support the patentability of independent claim 31 and related dependent claims. In view of the foregoing, Applicants respectfully assert that Ohno does not anticipate independent claims 15 and 31-39 and related dependent claims. It is respectfully requested that the pending claims of the present application be allowed.

#### **CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all

pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance, which action is earnestly solicited.


If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 4/30/02

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